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6 **IN THE UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

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10 ELLEN AMBROFF and TERRY AMBROFF,

11 Plaintiffs,

12 v.

13 AMERICAN MEDICAL SYSTEMS, INC.,

14 Defendant.
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Case Number 08-cv-04289 NC

**ORDER RE: JOINT CASE
MANAGEMENT STATEMENT**

Re: Docket No. 111

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17 Upon reviewing the Joint Case Management Statement, Dkt. No. 111, the Court rules on
18 the following issues presented in the Statement:

19 1. Plaintiffs' request to re-open expert discovery in order to supplement the report of Dr.
20 Parisian is DENIED, as the time period for expert discovery in this 2008 case arising from 2006
21 events has expired and the Court is not convinced of the relevance of the FDA hearings held in
22 September 2011.

23 2. The parties' agreement to extend the time period to depose AMS's expert Dr. Comiter
24 is DENIED. Dkt. 111 at 6. The parties lack the authority to change Court-ordered deadlines
25 without Court order and have not presented good cause to extend the discovery deadline. If the
26 parties wish to present good cause for a short extension, the Court will consider that information
27 at the Case Management Conference. Given the other deadlines proposed by Plaintiffs, Dkt. No.
28

1 111 at 12, the Court queries why Plaintiffs would agree to postpone the Comiter deposition until
2 December 9.

3 3. As to the unresolved discovery issue concerning the inadvertent production of
4 documents, Dkt. No. 111 at 4, the parties are ordered to meet and confer further and to propose a
5 remedy at the Case Management Conference. AMS should be prepared to identify the privilege
6 asserted for any inadvertently produced documents. A discovery dispute from January 2011
7 should not slow down the trial preparations in this case.

8 4. As to the motion and trial schedule, the Court is inclined to accept the schedule
9 proposed by Plaintiffs and to set hearings on summary judgment and *Daubert* motions for
10 January 2012, with a jury trial in March 2012. At the Case Management Conference, the Court
11 will ask AMS to explain the trial phases it proposes and why trial of this case is expected to last
12 at least four weeks.

13 IT IS SO ORDERED.

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16 DATED: October 13, 2011


NATHANAEL M. COUSINS
United States Magistrate Judge